

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In view of applicant's rejection the recitation of a "passage having variable dimensions" is not enabled by the specification.

3. To one of ordinary skill in the art (or experts in the field for that matter) the recitation of "having variable dimensions" implies that the passage is variable with respect to time rather than with respect to distance. Therefore, the recitation of a "passage having variable dimensions" is not enabled by the specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 3 is rejected, in view of applicant's remarks regarding the previously applied objection to the drawings, under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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6. To one of ordinary skill in the art (or experts in the field for that matter) the recitation of "having variable dimensions" implies that the passage is variable with respect to **time** rather than with respect to **distance**. Therefore, the examiner respectfully requests that the recitation of a "passage having variable dimensions" is changed to 'a nozzle' or some other phrase having a similar meaning.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 – 2, 8 -9, 11-12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woolard in view of Obergfell et al (US 3244407 A) (hereinafter Obergfell).

Woolard discloses an apparatus for processing foodstuff with liquid wherein a liquid container (5), a processing unit (12) for processing the foodstuff (see col. 3, lines 46-47), a feed conduit (9 and/or 6 and/or 2) connecting the liquid container to the processing unit via a pump (7 and/or 2), a return conduit (10) which connects to the feed conduit between the pump and the processing unit and which debouches in the liquid container (5), and closing means (12) for selectively closing the feed conduit from the pump to the processing unit and the return conduit (10) from the pump to the liquid container, characterized in that the apparatus also comprises supply means (3) to add additives (col. 3, lines 34-37), which supply means connect to the apparatus on the side

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of the closing means (12 and/or 2) in the feed conduit from the pump to the processing unit directed to the liquid container (see Fig. 1-2); the supply means connect to the apparatus behind a venturi (2, a "jet pump" which is a venturi as evidenced by diagram thereof provided by MathWorks) in a conduit; an injector (12) for injecting the liquid into the foodstuff (functional language which is therefore not given patentable weight).

Woolard discloses the claimed invention except for a supply means that is connected to and debouches on the return conduit and connects to the apparatus between the closing means in the feed conduit and the pump.

Obergfell discloses a funnel (21) which feeds into a return pipe (34) which then feeds into a mixing tank (15).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the mixing apparatus disclosed by Woolard by providing a funnel that feeds into the return pipe as disclosed by Obergfell in order to mix a solute into the solvent.

9. Claims 3 - 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woolard in view of Obergfell, as disclosed above with respect to claims 1-2, 8-9, 11-12 and 14-16, and further in view of Patterson and Pullman.

Woolard discloses a dispensing device (14) attached to the supply means except that the Venturi passage is provided with a passage opening having variable dimensions.

Patterson discloses a variable diameter Venturi tube (302) and Pullman discloses that the Venturi passage may be provided with a passage opening having variable

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dimensions in order to accommodate for different viscosities (e.g. particle sizes) (col. 3, lines 30-40).

It would have been obvious to one of ordinary skill in the art at the time of the invention to adapt Woolard with the Venturi passage (e.g. jet pump) by supplying a Venturi tube which has a variable diameter as disclosed by Patterson in order to accommodate different viscosities as disclosed by Pullman.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woolard in view of Obergfell, as disclosed above with respect to claims 1-2, 8-9, 11-12 and 14-16, and further in view of Taylor et al (US 5904851 A) (hereinafter Taylor).

Woolard as modified by Obergfell discloses the claimed invention except that an additional mixing means is attached for generating turbulence.

Taylor discloses an additional mixing means (21 and/or 23) in order to provide different mixing profiles.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the mixing apparatus disclosed by Woolard by providing an additional mixing means as disclosed by Taylor to compensate for different mixing profiles.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woolard in view of Obergfell and Taylor, as disclosed above with respect to claim 6, and further in view of Keller et al (US 4767026 A) (hereinafter Keller).

Woolard in view of Obergfell and Taylor discloses the claimed invention except that the mixing apparatus is detachable.

Keller discloses that a mixing apparatus (10) is detachable (col. 2 line 63 - col. 3 line 20).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the mixing apparatus disclosed by Woolard in view of Taylor by allowing for it to be detachable as disclosed by Keller to facilitate the cleaning of the device.

12. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woolard in view of Obergfell, as disclosed above with respect to claims 1-2, 8-9, 11-12 and 14-16, and further in view of Russell et al (US 20020057625 A1) (hereinafter Russell).

Woolard as modified by Obergfell discloses the claimed invention except for a second additive in the circulating mode.

Russell discloses a second additive (Fig. 3, "CO2 supply") in the circulating mode (72).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the mixing apparatus disclosed by Woolard by providing a second additive as disclosed by Russell to achieve a desired characteristic.

### ***Response to Arguments***

13. Applicant's arguments with respect to claims 1-9 and 11-16 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRETT SPURLOCK whose telephone number is (571)270-1387. The examiner can normally be reached on M-F, 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 5712724780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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10/14/2011

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